

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

In re: BRIDGET DEVLIN)
 PAMELA EICKEN)
 TINA DYE and)
 JAMES JAROCKI)

OEIG Case # 10-00790

OEIG FINAL REPORT (REDACTED)

Below is a final summary report from an Executive Inspector General. The General Assembly has directed the Executive Ethics Commission (Commission) to redact information from this report that may reveal the identity of witnesses, complainants or informants and “any other information it believes should not be made public.” 5 ILCS 430/20-52(b).

The Commission exercises this responsibility with great caution and with the goal of balancing the sometimes-competing interests of increasing transparency and operating with fairness to the accused. In order to balance these interests, the Commission may redact certain information contained in this report. The redactions are made with the understanding that the subject or subjects of the investigation have had no opportunity to rebut the report’s factual allegations or legal conclusions before the Commission.

The Commission received a final report from the Governor’s Office of Executive Inspector General (“OEIG”) and a response from the agency in this matter. The Commission, pursuant to 5 ILCS 430/20-52, redacted the final report and mailed copies of the redacted version and responses to the Attorney General, the Governor’s Executive Inspector General and to Bridget Devlin, Pamela Eicken, Tina Dye and James Jarocki at their last known addresses.

The Commission reviewed all suggestions received and makes this document available pursuant to 5 ILCS 430/20-52.

FINAL REPORT

I. Initial Allegations and Subsequent Allegations

The Office of Executive Inspector General (“OEIG”) received a complaint alleging that the Illinois Department of Commerce and Economic Opportunity (“DCEO”) was improperly renewing emergency appointments and giving pay increases to appointees. The complaint also alleged that DCEO staff did not follow the proper procedures when interviewing and hiring the husband of the then-Acting Deputy Director for the Office of Human Resources.

During the course of the investigation, the OEIG also discovered that DCEO failed to ensure that appointees met the minimum qualifications for the positions to which they were appointed and that DCEO employee James Jarocki falsified employment applications.

II. Background on Hiring for State Positions

A. United States Supreme Court Decision: *Rutan v. Republican Party of Illinois*, 497 U.S. 62 (1990), and Related Administrative Orders

In 1990, the United States Supreme Court issued its decision in *Rutan v. Republican Party of Illinois*, 497 U.S. 62 (1990). In *Rutan*, the Court held that public officials, such as those at Illinois State agencies, could not use political affiliation and support as a basis for hiring, promotion, transfer, or recall decisions for non-policy making positions. In the immediate wake of the *Rutan* decision, Governors James Thompson and Jim Edgar issued Administrative Orders regarding the interview and selection of State employees (Administrative Order No. 2 (1990) and Administrative Order No. 1 (1991), respectively). Thereafter, in 2009, Governor Pat Quinn reaffirmed the principles of the prior orders and issued an additional administrative order regarding the State's compliance with *Rutan*. See Administrative Order No. 2 (2009).

The Illinois Department of Central Management Services ("CMS") provides training on "Interview and Selection Criteria and Techniques" to State employees conducting employment interviews for positions covered by *Rutan*. State employees who complete this CMS training are referred to as "*Rutan*-certified" interviewers. Under Administrative Order No. 2 (2009), any agency employee interviewing and evaluating a candidate for a *Rutan*-covered position must be *Rutan*-certified.

The *Rutan* training provides specific guidance to State employees on the employment interview and selection process. For example, the training instructs interviewers on:

- Developing hiring criteria based on the job description and assigning appropriate weights to those criteria;
- Interview questioning and the documentation of responses; and
- The evaluation of candidates based on uniform scoring.

The *Rutan* training was designed to create an objective process for evaluating candidates on the basis of their qualifications for a position, and thus to comply with the *Rutan* decision.

B. Executive Inspectors General Review of State Hiring Practices

In 2009, the General Assembly amended the State Officials and Employees Ethics Act ("Ethics Act") and, among other things, expanded the duties of Executive Inspectors General to include the following duty:

To review hiring and employment files of each State agency within the Executive Inspector General's jurisdiction to ensure compliance with *Rutan v. Republican Party of Illinois*, 497 U.S. 62 (1990) and with all applicable employment laws.

5 ILCS 430/20-20(9). As a result of this amendment to the Ethics Act, the Executive Inspector General for the Agencies of the Illinois Governor has reviewed various State agency hiring practices, including the practices set forth in this report.

III. Background on Emergency Appointments and Pay for State Employees

A. Authority Related to Emergency Appointments

The Illinois Personnel Code allows State agencies to make appointments “for a period not to exceed 60 days” in order to meet “emergency situations.”¹ Emergency appointments may be made without regard to candidate eligible lists, but “may not be renewed.”² In addition, CMS has created a *Personnel Transactions Manual*³ to assist agencies in complying with State employment laws and administrative regulations. The *Personnel Transactions Manual* states that “Emergency Appointments should be very rare,” and that:

Consecutive Nonmerit Appointments, such as Emergency, Temporary, or Provisional are not to be made solely for the purpose of preserving the employment status of an individual. Such a practice is in violation of merit standards.⁴

B. State Regulations Regarding Pay for State Employees

State law and accompanying regulations create a framework for consistent salary management for State employees. The Director of CMS is mandated to create a pay plan for employees under the jurisdiction of the Governor’s office.⁵ These policies and procedures are collectively referred to as the “Pay Plan” and are controlling “in matters of employee pay administration.”⁶

Under the Pay Plan’s framework, most new employees are paid at a designated entry-level salary (called the minimum base pay).⁷ In instances where an employee’s qualifications exceed position requirements, an agency may offer the candidate a base salary of up to 5% above the minimum base pay without CMS approval.⁸

Pay offered to an employee (either the minimum base salary or a salary that has been properly increased by up to 5%) that is greater than 10% from the employee’s previous salary requires CMS approval.⁹

¹ 20 ILCS 415/8b.8.

² 20 ILCS 415/8b.8.

³ All citations to the *Personnel Transactions Manual* are to the sections of the manual revised December 31, 2004, which were in effect at the time the transactions in this matter occurred.

⁴ *Personnel Transactions Manual*, Section 2, p. 17.

⁵ 20 ILCS 415/8a(2).

⁶ 80 Ill. Adm. Code §310.20(2).

⁷ 80 Ill. Adm. Code §310.100(b)(1).

⁸ 80 Ill. Adm. Code §310.100(b)(2).

⁹ *Personnel Transactions Manual*, Section 10, p.3, I.A.(3).

IV. Background on DCEO Offices and Programs

DCEO seeks to provide “a foundation for the economic prosperity of all Illinoisans, through the coordination of business recruitment and retention, infrastructure building and job training efforts, and administration of state and federal grant programs.”¹⁰ DCEO’s Office of Workforce Development is responsible for coordinating with Local Workforce Investment Areas (“LWIAs”) to identify workers eligible for assistance under the federal Workforce Investment Act. DCEO is primarily responsible for monitoring local agencies using federal grant money to assist workers.

DCEO also administers various grant programs through its Office of Energy Assistance. The Office of Energy Assistance trains and employs weatherization specialists to inspect homes and assist homeowners in making their homes more energy efficient.

DCEO’s Office of Human Resources coordinates hiring for all its offices, including the Office of Workforce Development and Office of Energy Assistance.

V. Investigation

A. Allegations Regarding Emergency Appointments

- 1. Review of Records Relating to the Employment of [employee 1], [employee 2], and James Jarocki*

The OEIG’s review of employment records revealed the following:

a. Emergency Appointments for Manpower Planner Positions

In October 2009, [employee 1],¹¹ [employee 2], and James Jarocki (the “Appointees”) were each hired as 60-day emergency appointments for a Manpower Planner III position.¹² These 60-day emergency appointments were prepared and processed by Human Resources Specialist Pam Eicken. Deputy Director of Human Resource Bridget Devlin provided final approval of the hires and signed them on behalf of former [employee 7]. The Appointees were placed in positions that were responsible for conducting programmatic, fiscal, and on-site monitoring in LWIAs in the Office of Workforce Development – all duties consistent with the official job description for the position of Manpower Planner III.¹³

¹⁰ http://www.ildceo.net/dceo/Bureaus/Administration_Directors_Office/Agency_Mission_Statement/

¹¹ [Employee 1] was not interviewed by the OEIG as part of this investigation.

¹² [Employee 2]’s first emergency appointment was to a Manpower Planner II position, but the duties were nearly identical to those outlined for Mr. Jarocki and [employee 1] in their Manpower III positions. [Employee 2] and Mr. Jarocki also stated in their OEIG interviews that they were doing the same work during these appointments.

¹³ According to the class specification for the positions, Manpower Planner II and III positions at DCEO require: (1) knowledge, skill and mental development equivalent to completion of four years of college; and (2) two and three years, respectively, of professional experience in manpower development or in the administration of a wide variety of personnel programs. The Manpower Planner positions are part of a collective bargaining unit represented by the American Federation of State, County and Municipal Employees (“AFSCME”).

After the first 60-day emergency appointment term was over, the Appointees received three additional consecutive 60-day emergency appointments in the Manpower Planner III position for a total of 240 days or 8 months. The terms of these four 60-day emergency appointments were as follows:

First 60-day Emergency Appointment: Oct. 13, 2009 to Dec. 12, 2009
Second 60-day Emergency Appointment: Dec. 14, 2009 to Feb. 12, 2010
Third 60-day Emergency Appointment: Feb. 13, 2010 to Apr. 14, 2010
Fourth 60-day Emergency Appointment: Apr. 15, 2010 to Jun. 14, 2010

The second set of 60-day emergency appointments was also prepared and processed by Human Resources Specialist Pam Eicken and approved by Deputy Director of Human Resource Bridget Devlin. The Appointees' job position descriptions for the second set of 60-day emergency appointments did not change from the first set of 60-day emergency appointments.

For the third set of 60-day emergency appointments, the Appointees were hired into Manpower Planner III positions that were responsible for providing technical assistance to Local Workforce Investment Boards to explain technical aspects of the Workforce Investment Act. The third set of 60-day emergency appointments was prepared and processed by Human Resources Specialist Pam Eicken. [Employee 3] approved the appointments on behalf of the Director.¹⁴

For the fourth set of 60-day emergency appointments, the Appointees were hired into a position in which they were responsible for designing special workforce-related projects and initiatives. The fourth set of 60-day emergency appointments was prepared and processed by Human Resources Specialist Pam Eicken and [employee 3]¹⁵

b. Appointees' Pay in Emergency Appointments

Employment records revealed that prior to any 60-day emergency appointments with DCEO, the Appointees had been paid the following monthly salaries at their previous non-State employment: [employee 1], \$6,300; [employee 2], \$2,000; and James Jarocki, \$4,567.

[Employee 1]'s monthly salary in the Manpower Planner position was \$6,356 and did not increase over the term of her emergency appointments. However, [employee 2] and Mr. Jarocki each received increases over the term of their various 60-day emergency appointments. Their monthly salaries for each term were:

¹⁴ [Employee 3] was not an employee in the DCEO Human Resources Office, but he signed transaction forms for which Ms. Dye did not have signature authority.

¹⁵ For the several 60-day emergency appointments, the Appointees were placed into Manpower Planner III positions that bore position numbers that differed from the position numbers of the prior appointments. For the second set of 60-day emergency appointments, the different position numbers reflected a position with the same duties as the first appointment but with responsibilities for a different geographical region. As detailed above, the positions for the third and fourth sets of 60-day emergency appointments involved different duties than the positions for the first two sets of appointments and, therefore the position numbers associated with those positions were different from the position numbers associated with the first two appointments.

First 60-day Emergency Appointment: [Employee 2](\$3,709), Mr. Jarocki (\$5,024)
Second 60-day Emergency Appointment: [Employee 2] (\$4,080), Mr. Jarocki (\$5,802)
Third 60-day Emergency Appointment: [Employee 2] (\$4,284), Mr. Jarocki (\$5,802)
Fourth 60-day Emergency Appointment: [Employee 2] (\$4,498), Mr. Jarocki (\$6,092)

c. Employment Post-Emergency Appointments

On June 15, 2010, after the expiration of the four consecutive 60-day emergency appointments, [employee 1], [employee 2], and Mr. Jarocki were each given an additional six-month temporary appointment to a Manpower Planner III position. The appointments expired on December 31, 2010. The salary of each Appointee during the six-month temporary appointment remained the same as the salary they received during their fourth 60-day emergency appointments.

On July 12, 2010, Mr. Jarocki was hired as a full-time, permanent Manpower Planner III. When he accepted permanent employment, Mr. Jarocki received \$6,295 per month or an increase of \$1,271 per month (25%) over the monthly salary he received during his first 60-day emergency appointment.

2. *Interview of [Employee 4]*

On January 18, 2011, the OEIG interviewed [employee 4]. [Employee 4] was responsible for implementation of and compliance with the Personnel Code. [Employee 4] said that candidates for emergency appointments should meet the position requirements and that emergency appointments should not exceed 60 days. According to [employee 4], State agencies select individuals for these appointments without CMS involvement and emergency appointments are made without consideration of “eligible lists” or electronic personnel action request (“ePAR”) approval.¹⁶

[Employee 4] stated that pursuant to the Personnel Code, 60-day emergency appointments cannot be renewed. Despite this, [employee 4] explained that some agencies keep emergency staff on payroll by re-appointing employees to an additional 60-day emergency appointment position. [Employee 4] stated that when appointing an employee to an additional 60-day emergency appointment position, the employee should be working in a position with a different position number and must perform different duties. [Employee 4] said that the vast majority of emergency appointments are used so that an employee who has been selected to fill a vacancy through a competitive selection process may commence working while waiting on final ePAR approval.

Emergency appointments fall under the jurisdiction of the State Pay Plan; therefore, the salary for an emergency appointment should not be more than the regular pay for the position. [Employee 4] stated that under the Pay Plan, caps are placed on allowable maximum increases.

¹⁶ By virtue of Executive Order No. 1 (2003), all personnel transactions affecting agency budgets or headcounts require approval by the Governor’s Office or its Office of Management and Budget via the submission of an ePAR. Agencies must obtain approval to post a position, and then approval to fill the position after a particular candidate is selected.

In order to receive pay beyond the maximum increase, an agency is required to provide a special salary request to CMS for approval. DCEO did not submit special salary requests for CMS approval prior to the salary increases awarded to [employee 2] and James Jarocki.

3. *Interview of [Employee 2]*

On March 24, 2011, investigators interviewed [employee 2]. [Employee 2] was initially hired as a Manpower Planner II in October 2009. According to [employee 2], [employee 5] offered her a 60-day emergency appointment position without her having to complete an application, take a test, or submit to an interview. After the first 60-day emergency appointment expired, [employee 2] was offered three additional 60-day emergency appointments. During the first 60-day emergency appointment period, she and the other appointees worked on a data validation project. For the second, third, and fourth 60-day emergency appointment periods, [employee 2] said she assisted permanent Manpower Planner IIIs and supervisors, reviewed and corrected work completed by local offices, and worked in the field. For approximately one month, [employee 2] performed non-Manpower Planner duties.

[Employee 2]'s supervisor, [employee 5], told her he would try to get her a raise and a higher position. At the conclusion of her appointments, [employee 5] informed [employee 2] that she could not apply for the permanent Manpower Planner III position because she did not have a college degree or two years working with the Manpower Planner duties. [Employee 2]'s experience prior to working at DCEO was working as a clerk at Kelly Services and at a fast-food restaurant.

4. *Interview of DCEO Manpower Planner III James Jarocki*

On April 7, 2011, investigators interviewed Manpower Planner III James Jarocki, who said he was among employees hired for two months in October 2009. Mr. Jarocki stated that he was assigned to help complete a project that is typically completed by permanent staff. Mr. Jarocki said he was then hired for three additional two-month terms and for a six-month term beginning June 15, 2010. Throughout the appointments, Mr. Jarocki said he was assigned to different projects, all of which fell within the duties of a Manpower Planner III position, like that in which he was presently employed.

5. *Interview of [Employee 5]*

On April 7, 2011, investigators interviewed [employee 5], who is responsible for the Cook County Region in the Office of Workforce Development. [Employee 5] said that in 2009 he requested additional help because his region was understaffed and unable to complete a federally funded project.

[Employee 5] said that, after the initial 60-day emergency appointment, Mr. Jarocki, [employee 2], and [employee 1] were selected to continue with three additional 60-day emergency appointments, and that, between appointments, Mr. Jarocki and [employee 2] were given a "standard increase." Since [employee 5] did not have the authority to approve salary

increases, he asked [employee 6] to approve the increases. [Employee 5] said that the increase in pay reflected an expansion in their duties.

[Employee 5] understood that the vacant positions into which the Appointees were hired were just “place holders” for the Appointees, and the Appointees did not have to be able to perform all the duties of the position. [Employee 5] said he was not given any direction to ensure that individuals met the requirements of the positions into which they were hired.

6. *Interview of [Employee 6]*

On May 17, 2011, investigators interviewed [employee 6]. [Employee 6] stated that she is responsible for initial approval of temporary and emergency appointments to positions in the Office of Workforce Development, and that the Deputy Director of Human Resources then makes the final decision. [Employee 6] understood emergency appointments to be appropriate for drastic staffing needs.

[Employee 6] explained that when the Appointees’ emergency terms were renewed, the Appointees assisted with completing other projects and performed different duties during each renewal period, just as they performed different duties on a daily basis.

[Employee 6] stated that she had no knowledge of Mr. Jarocki and [employee 2] receiving salary increases, did not recall discussing raises with Human Resources, and she allowed Human Resources to “handle those decisions.” [Employee 6] understood that emergency appointees were required to fill out an application and submit it to Human Resources for review. She said she did not review applications and assumed that at some point, the applicants were vetted by the DCEO Human Resources staff. [Employee 6] stated that prior work experience is not required, but stated that, as far as she knew, the Appointees had relevant work experience.

7. *Interviews of DCEO Human Resources Specialist Pam Eicken*

On May 17 and September 27, 2011, investigators interviewed DCEO Human Resources Specialist Pam Eicken. Ms. Eicken had been working in the Human Resources Specialist position since 2008 and has been in the Office of Human Resources at DCEO since 2000. According to her job description, Ms. Eicken is responsible, in part, for providing technical assistance to the Human Resources Manager for hiring practices and participating in the process of filling vacancies in the agency.¹⁷

¹⁷ The position description for Ms. Eicken’s Human Resources Specialist position further lists the following responsibilities: independently preparing and processing all agency transactions and related documentation for personnel actions; applying complex and technical knowledge regarding transactions; correctly interpreting and applying Personnel Rules, Pay Plan, contracts, agency policy, transactions guidelines and CMS policy changes for preparation of employee transactions; and serving as the agency’s technical expert in the correct application for specific transactions. The Human Resources Specialist is also expected to confer with the Human Resources Manager regarding any salary adjustment requests that are considered, evaluate justification in accordance with the Pay Plan, and advise the Manager on the viability of the request as well as preparing the requests for CMS approval when needed.

According to Ms. Eicken, the Deputy Director for the office seeking 60-day emergency appointments would contact the Director's office or the Deputy Director for Human Resources in order to obtain an appointment. Ms. Eicken said that she is primarily responsible for processing all transactions relating to new employees, transfers, promotions, code changes, and address changes. Ms. Eicken said that her only involvement with emergency appointments is handling the transactions once the hiring decision has been made.

Ms. Eicken was not aware of who selected individuals to fill the 60-day emergency appointments. Ms. Eicken understood that no work experience is required, and said she was unsure if anyone reviews an individual's qualifications before an appointment. Ms. Eicken said that she was aware of the renewals of the Appointees' emergency appointments and stated that the Deputy Director of the hiring area and Director of DCEO approve renewals. Employees whose emergency appointments are renewed are not supposed to do the same job in the same area; accordingly, the position number should change for each appointment. In any event, Ms. Eicken said that she is not responsible for overseeing appointees.

Ms. Eicken was aware that Mr. Jarocki and [employee 2] received salary increases between appointments that were initiated by the Deputy Director of the office and then the Deputy Director of Human Resources forwards it for processing. Ms. Eicken recalled that Mr. Jarocki and [employee 2] received a single 10% increase and additional 5% increases. Ms. Eicken said that she did not know why a person hired for a 60-day emergency appointment would be eligible for a salary increase. Ms. Eicken said she later learned from CMS that the increases were inappropriate.¹⁸ Ms. Eicken said that CMS should tell DCEO if they were doing something inappropriate.

8. *Interview of DCEO Human Resources Specialist Tina Dye*

On May 18, 2011, the OEIG interviewed DCEO Human Resources Specialist Tina Dye. Ms. Dye stated that, in that position, she is primarily responsible for leaves of absence, timekeeping, benefits, and worker's compensation.¹⁹ From January 1 through September 14, 2010, Ms. Dye served as the Acting Deputy Director for Human Resources. As Acting Deputy Director, Ms. Dye did not have the Director's signatory authority other than for planned leaves or timesheets.

Ms. Dye stated that no one person decides to appoint a person to a 60-day emergency appointment position. Ms. Dye stated that, as Acting Deputy Director, she would receive a request to hire an appointee and would take the request to the other Human Resources staff to determine if the emergency appointment was allowable. Ms. Dye learned from Ms. Eicken that so long as an individual is appointed to a different position number and is performing different

¹⁸ Ms. Eicken said that she was not obligated to report an issue if she saw what she believed was violations of the Personnel Rules or *Rutan* non-compliance matters. Ms. Eicken said that if something came from the Director, a Deputy Director, or the Deputy Director of Human Resources, she did not question it; she just "processes the paperwork." Ms. Eicken subsequently said that if "something was blatantly unethical, [she] might say something."

¹⁹ Though also a Human Resources Specialist, Ms. Dye's responsibilities are different from Ms. Eicken's, specifically with respect to transactions and hiring.

duties, back-to-back emergency appointments were acceptable. Ms. Dye said that, for each appointment, Human Resources staff determined the position to place the Appointee.

Ms. Dye said that, to ensure that the Appointees were performing different duties during each appointment, she stressed to [employee 6] and [employee 5] that the Appointees needed to perform the specific duties of the position into which they were appointed. Ms. Dye stated that either [employee 5] or [employee 6] would be responsible for monitoring the Appointees' assignments. After reviewing the justification for the renewals, Ms. Dye did have a concern that the Appointees were not performing different duties each time an appointment was renewed. However, Ms. Dye said she felt pressure to get the emergency appointments completed because former [employee 7] directly asked her about the status of getting the appointments completed.²⁰

9. *Interview of Former DCEO Deputy Director for Human Resources
Bridget Devlin*

On May 19, 2011, investigators interviewed then-DCEO Deputy Director for Human Resources Bridget Devlin. Ms. Devlin had served in this position for approximately ten years. From December 2009 to September 2010, Ms. Devlin temporarily left human resources to serve as Assistant Deputy Director for the Office of Energy Assistance. After returning to Human Resources, Ms. Devlin left State service entirely on May 18, 2012.

Ms. Devlin stated she is aware of the difference between emergency and temporary appointments and relies on Human Resources Specialist Pam Eicken to ensure that the appointment processes are completed properly. Ms. Devlin said that the Deputy Director of the office seeking to make a 60-day emergency appointment initiates the process by asking her for an emergency appointment. After receiving such a request, Ms. Devlin would then consult with Ms. Eicken to determine whether there was a vacant position that could be used to meet the needs of the office. In her role as Deputy Director of Human Resources, Ms. Devlin signed appointment paperwork on behalf of the Director.

Ms. Devlin recalled the 60-day emergency appointments of James Jarocki, [employee 2], and [employee 1]. The appointments were renewed multiple times because the need for assistance continued. Ms. Devlin said that although there are no requirements that the appointees have relevant work experience when filling an emergency appointment, she assumed that someone in the office where the appointee was going to work would complete interviews, if required. Ms. Devlin stated that appointees must have the skills to perform the duties of the position into which they are appointed. According to Ms. Devlin, DCEO would not check an individual's education level prior to filling a position as an emergency appointment.

Ms. Devlin stated that emergency appointments have been renewed in the past so long as the person was appointed to a different position and was assigned different duties during the subsequent appointment.

²⁰ OEIG investigators did obtain an electronic message string wherein [employee 7] asked Ms. Dye "What is the status?" in response to an earlier email about the ePARs for six-month temporary appointments (not the prior emergency appointments) for Mr. Jarocki, [employee 2], and [employee 1].

Ms. Devlin was not aware whether appointees could receive pay increases but said that Ms. Eicken would know the answer. As the Deputy Director for Human Resources, she used the Director's signature authority to approve salary increases. Ms. Devlin stated that generally she assumed that action taken by her office was "ok" unless she learned differently from CMS. Ms. Devlin learned from Ms. Eicken and Ms. Dye that during Ms. Devlin's absence from the Human Resources office, CMS informed DCEO that the emergency appointments could not be renewed. Since that time, Ms. Devlin had not faced a similar situation.

B. Allegation Relating to the Improper Hiring of [Mr. Dye]

1. Review of Documents Related to Filling of Weatherization Specialist Trainee positions

In March 2010, Human Resources employee Pam Eicken requested an open, competitive eligible list from CMS, from which DCEO sought to fill four Weatherization Specialist Trainee positions. CMS provided a list containing only demographic information (race, gender, and veteran status) and limited information about individuals' experience related to the position. Ms. Eicken requested and received contact information from CMS for all 63 applicants on the eligible list.

DCEO hiring documents reveal that Bridget Devlin and [employee 8] served as *Rutan* interviewers for the Weatherization Specialist Trainee positions. [Mr. Dye] was one of the applicants invited to an interview and his score ranked him second out of five applicants interviewed, and he was selected for a position.

2. Interview of DCEO Human Resources Specialist Pam Eicken

In her May 17, 2011, interview, Ms. Eicken said that in order to fill positions from an open, competitive eligible list (list of eligible applicants), DCEO takes the following steps: (1) request from CMS an eligible list from which names and contact information have been removed ("blind" list);²¹ (2) review the blind list; (3) request contact information for any veterans on the list; (4) if vacancies remain after interviewing the veterans, request contact information for any non-veteran applicants that the office has selected to interview; and (5) invite the selected applicants to an interview. Ms. Eicken stated that in the past, she would request names and contact information for *all* of the applicants prior to determining who should be invited to interview. Ms. Eicken said that DCEO no longer engages in this practice because CMS informed them that they were violating State hiring rules.

Ms. Eicken said that with respect to the Weatherization Specialist Trainee positions filled in 2010, [employee 8] and Bridget Devlin selected applicants to interview from an eligible list containing names and contact information.

3. Interview of [Employee 8]

²¹ The open, competitive eligible lists that are devoid of name and contact information are also referred to as "blind" lists. The blind lists have codes for experience that require a key to decipher.

On May 16, 2011, the OEIG interviewed [employee 8]. [Employee 8] said that in 2010, he and Bridget Devlin, who had been assigned from Human Resources to Assistant Deputy Director for the Office of Energy Assistance, conducted interviews for Weatherization Specialist Trainee positions. [Employee 8] recalled receiving an open, competitive eligible list provided by CMS that contained approximately 30 eligible "A" grade applicants. [Employee 8] used his discretion concerning whom to interview for the two remaining positions and selected six applicants from an eligible list that contained names and contact information of all candidates.

[Employee 8] chose whom to invite for interviews but Ms. Devlin told [employee 8] that she would like to interview [Mr. Dye] because of his carpentry background. At the time of the interview selection, [employee 8] was not aware of how Ms. Devlin knew Mr. Dye or his background.

[Employee 8] said that the selections for hiring were based solely on the applicants' interviews. Mr. Dye scored second highest and was hired for one of two positions. After Mr. Dye was selected as a candidate, [employee 8] learned that Mr. Dye was married to a woman in Human Resources (Tina Dye).

4. *Interview of DCEO Human Resources Specialist Tina Dye*

In her May 18, 2011, interview, Ms. Dye said that she was Acting Deputy Director at the time her husband applied for the Weatherization Specialist Trainee position. Ms. Dye stated that she was not involved in the interview or selection of candidates for the Weatherization Specialist Trainee positions, but that she was aware that Bridget Devlin and [employee 8] were the *Rutan* interviewers for the position.

Before applicants had been invited to interview, Ms. Dye spoke with Ms. Devlin and told her that her husband had applied for the position and had an "A" grade. Ms. Dye also told Ms. Devlin that "if she [Ms. Devlin] got an opportunity" to interview Mr. Dye, she would see that he would do well in the job. Ms. Dye said that she intended her comments to be a request that Ms. Devlin interview her husband. Ms. Dye said that she never implied that Ms. Devlin should hire her husband, but only requested that he be given an opportunity to interview.

Ms. Dye described her conversation with Ms. Devlin as "putting in a good word for her husband." Ms. Dye did not believe she did anything wrong and said her husband is doing very well and is "10 times the employee" as some other DCEO staff. Ms. Dye said that she would have done the same thing for a good friend.

5. *Interview of Former DCEO Deputy Director of Human Resources Bridget Devlin*

On May 19, 2011, investigators interviewed Bridget Devlin who said that in 2010, she and [employee 8] conducted interviews for Weatherization Specialist Trainee positions. According to Ms. Devlin, [employee 8] randomly selected candidates from the open competitive list to invite for interviews. Ms. Devlin stated that she reviewed candidates' applications prior to interviewing them for the positions.

Ms. Devlin knew [Mr. Dye] from having worked with his wife and because he provided lawn care at her home through a lawn service. Prior to the interviews, Ms. Devlin had been told by Ms. Dye that her husband had applied for the position. Ms. Dye told Ms. Devlin, "If you get a chance to interview my husband, he would be a good candidate." Ms. Dye explained to Ms. Devlin that Mr. Dye was interested in the type of work a Weatherization Specialist performs. Ms. Devlin stated that she told [employee 8] to interview Mr. Dye but clarified that they were "not doing this because we have to hire him." Ms. Devlin said that Mr. Dye was selected for the position because he scored well in his interview. Ms. Devlin did not believe that her conversation with Ms. Dye was inappropriate or that it was inappropriate for her to select Mr. Dye for an interview because he was married to Ms. Dye.

Ms. Devlin was shown a copy of Administrative Order No. 2 (2009). Ms. Devlin stated that she was familiar with the Order. Ms. Devlin stated that she did not feel that her conversation with Ms. Dye violated the Order's direction that *Rutan* interviewers be "free of advance knowledge of candidates and of outside influences." Ms. Devlin stated that Mr. Dye was hired based on his interview, and that she did not use his application or prior knowledge of his background when scoring his interview.

When asked whether DCEO was complying with the direction given in Administrative Order No. 2 (2009) regarding use of "blind" eligible lists, Ms. Devlin said that she was not sure when she and [employee 8] saw the names on the list, but knows they saw the names before candidates were invited for interview. Ms. Devlin was asked whether DCEO was complying with CMS policies and procedures by seeking contact information for every candidate on the eligible list then only selecting a few candidates to interview. Ms. Devlin stated that she should have had a better understanding of the process.

C. Falsification of Employment Applications Allegation

1. Review of Manpower Planner III James Jarocki's Employment Applications

Between October 2009 and June 2010, Mr. Jarocki submitted multiple CMS-100 employment application forms to DCEO for processing his emergency and temporary appointments, as well as to CMS for grading. On two applications submitted in October 2009, Mr. Jarocki left the "hours earned" section blank with regard to educational semester hours earned. In February 2010, Mr. Jarocki reported having earned 8 semester hours from Loyola University between 1991 and 1995. In April 2010, Mr. Jarocki reported having earned 43 semester hours, and on two applications in June 2010, he reported having earned 102 semester hours during the same period.

In several instances, Mr. Jarocki left the "level and date of degree" blank. However, on one of his October 2009 applications, he reported "JR," and on both of his June 2010 applications, he reported "4." The resume attached to his June 22, 2010, application stated that he was pursuing a "BBA in Computer Sciences." Mr. Jarocki only reported the areas of completed coursework on his June 2010 applications.

2. *Review of Mr. Jarocki's Official Transcript from Loyola University*

Investigators obtained and reviewed Mr. Jarocki's transcript from Loyola University. These records reflect that Mr. Jarocki earned 45 semester hours between Fall 1991 and Spring 1995. Mr. Jarocki's transcript shows no coursework in any computer-related field.

3. *Interview of [Employee 9]*

On July 28, 2011, OEIG investigators interviewed [Illinois Department of Central Management Services employee]. [CMS's employee's] unit is responsible for scoring applications for the Manpower Planner III position. [Employee 9] stated that the Manpower Planner III position does not require completion of a college degree but does require the equivalent of the completion of four years of college. [Employee 9] reviewed Mr. Jarocki's April 22, 2010, application wherein he reported having completed 102 semester hours of college. The April 22, 2010, application received an "A" grade. [Employee 9] was asked how Mr. Jarocki's application would score if he had reported only 45 semester hours of college. [Employee 9] stated that a definitive answer would require additional analysis of his work history. However, [employee 9] said that the highest grade the April 22, 2010, application could have received with only 45 semester hours was a "B."

4. *Review of the Open, Competitive Eligible List for the Manpower Planner III position to which James Jarocki Was Hired*

A review of the open, competitive eligible list for the Manpower Planner III position to which James Jarocki was hired shows DCEO could have considered 25 applicants with "A" grades.

5. *Interview of DCEO Manpower Planner III James Jarocki*

In his September 6, 2011, interview, Mr. Jarocki was asked about the amount of college coursework he had completed. Mr. Jarocki stated that he was unsure and he was then shown copies of the six CMS-100 employment applications submitted to DCEO. Mr. Jarocki confirmed that he had completed and signed each application. When asked to explain the different numbers of reported semester hours, Mr. Jarocki stated that he believed the correct number of semester hours was closer to the 43 hours reported in April 2010 rather than the 102 hours reported on the June 2010 applications.

When asked about the "level and date of degree" section of the application, Mr. Jarocki stated that he did not have a degree and made sure to never say that he had completed a degree that he had not. Mr. Jarocki said that the "JR" he listed on his October 14, 2009, application was an abbreviation for junior or third year student, though he was unsure how many credit hours were needed at Loyola University to be considered a junior. Mr. Jarocki confirmed that on another application he reported "4."

Mr. Jarocki said that he reported earning 102 hours because he did not want to say that he had a degree but he did not want it to appear that he was far from receiving a degree. Mr. Jarocki stated that the education information that he reported on the October 2009 and June 2010 applications was inaccurate. When asked whether he falsified his application in order to receive a position with DCEO, Mr. Jarocki responded, "Yes."

VI. Analysis

A. Renewed Emergency Appointments and Inflated Pay to Appointees Violated the Personnel Code.

1. Renewals of Emergency Appointments Violated the Personnel Code.

The Illinois Personnel Code states that agencies may make appointments "for a period not to exceed 60 days" in order to meet "emergency situations." 20 ILCS 415/8b.8. These emergency appointments may be made without regard to eligible lists, but "may not be renewed." *Id.* Prior CMS approval of an emergency appointment is not required, but CMS counsels in its *Personnel Transactions Manual*, (Section 2, p. 17), that "Emergency Appointments should be very rare," and:

Consecutive Nonmerit Appointments, such as Emergency, Temporary, or Provisional are not to be made solely for the purpose of preserving the employment status of an individual. Such a practice is in violation of merit standards.

It is vital that emergency appointments be used sparingly and not be renewed because such appointments are *not subject* to ePAR approval, prior CMS approval, or the safeguards of the competitive process outlined in the Personnel Code.

In this case, James Jarocki, [employee 2], and [employee 1] were appointed to four consecutive 60-day emergency appointments in clear violation of the Personnel Code. Although their position numbers may have changed slightly to reflect a different region, all three employees performed the duties of a Manpower Planner III position in each of their four appointments, the justification listed for each of these appointments was virtually the same, and the Appointees all reported to [employee 5] throughout their appointments.

Human Resources Specialist Pam Eicken, Human Resources Specialist/Acting Deputy Director for Human Resources Tina Dye, and former Deputy Director of Human Resources Bridget Devlin all said they believed that back-to-back 60-day emergency appointments were acceptable if the appointees were doing different duties in a position with a different position number for each appointment. [Employee 4] explained that re-appointing an employee to another 60-day emergency appointment position is not an improper renewal if the person is being hired for a different position and performs different duties. Essentially, as explained by these witnesses, that scenario would not be a renewal, but a "new" emergency hire.

However, such a scenario did not occur in this case. Although the DCEO continued the 60-day emergency appointments of the Appointees in this case under the guise of a new position

number, there was no substantive change in job duties. The appointments of Mr. Jarocki, [employee 2], and [employee 1] violated the Personnel Code because the Appointees performed essentially the same monitoring functions during each appointment. [Employee 2] performed the same work as the other Appointees even when appointed to a different title (Manpower Planner II). Although the Appointees may have worked on different projects at different times, the evidence reveals that, for all the appointments, the Appointees were consistently performing Manpower Planner III duties and always reporting to [employee 5]. The fact that consecutive 60-day emergency appointments may be permissible where the appointments are for genuinely different positions does not provide a means for circumventing the law by changing positions on paper alone.

It is not clear whether Human Resource personnel manipulated the position numbers to circumvent the prohibition against renewing emergency appointments, or merely failed to inform the hiring office that consecutive emergency appointments were improper. But Human Resource personnel are responsible for ensuring that the Personnel Code and accompanying regulations are followed and not circumvented. In this case, no one in the Office of Human Resources inquired or attempted to determine whether the Appointees were actually performing different duties during each appointment such that the subsequent appointments would fall under the Office of Human Resources' definition of acceptable appointments. In fact, Ms. Dye stated that she had concerns that these Appointees were not performing different job duties in their reappointments, but she did not voice these concerns to the hiring office or act on them. Ms. Eicken went even further and stated that she was not obligated to report an issue that she believed was a violation of personnel rules or *Rutan*. If the department tasked with ensuring that personnel rules are followed does not believe it is its job to stop such improper conduct, to counsel against such misconduct, or at the very least inquire into whether conduct is improper according to the personnel rules, an agency cannot know whether it is in compliance.

The Deputy Director of Human Resources and the Human Resources Specialist at DCEO—Ms. Devlin and Ms. Eicken—were responsible for correctly interpreting and applying Personnel Rules, Pay Plan, contracts, agency policy, and CMS policies regarding personnel matters. The back-to-back emergency appointments of James Jarocki, [employee 2], and [employee 1] were unlawful renewals of emergency appointments. Therefore, the allegations that Ms. Devlin violated the Personnel Code by approving emergency appointment renewals and that Ms. Eicken violated the Personnel Code by processing the appointments are **FOUNDED**.²²

2. *James Jarocki and [employee 2]'s Level of Pay Was Contrary to the Pay Plan.*

The Personnel Code directs the Director of CMS, with the Governor's approval, to create a pay plan that governs the pay for employees under the jurisdiction of the Governor's office. 20 ILCS 415/8a(2). The Pay Plan's policies and procedures "are controlling in matters of employee pay administration." 80 Ill. Adm. Code §310.20(2). Where a new employee's qualifications only meet the minimum requirements for a position upon entry into State service, the Pay Plan directs

²² Ms. Dye failed to object to the appointments or make any other effort to intervene, despite her concerns. However, because Ms. Dye did not have authority to approve pay increases or appointments, the OEIG makes no finding against her regarding the emergency appointments.

that the employee's entrance salary is the "minimum base salary of the pay grade." 80 Ill.Adm.Code §310.100(b)(1). Where an applicant's qualifications exceed the minimum position requirements, the employing agency may offer the candidate a salary of no more than 5% above the minimum base salary without seeking prior approval from CMS. 80 Ill.Adm.Code §310.100(b)(2). In addition, CMS policy requires employing agencies to seek approval from the Director of CMS to offer a new employee a salary of more than 10% higher than the employee's prior salary. *Personnel Transactions Manual*, Section 10, p. 3, 1.A.(3).

Despite the limitations imposed by law and the guidance from CMS regarding interpretation of the Pay Plan, DCEO hired Mr. Jarocki in October 2009 at more than 5% above the minimum base salary for a Manpower Planner III. Mr. Jarocki's initial salary of \$5,024 per month put him well above the bottom of the negotiated pay scale for the position of \$4,603 per month. Just 60 days later, Mr. Jarocki received another 10% increase, and received another 5% increase in February 2010. In his first four months of State employment, Mr. Jarocki's salary was more than 27% higher than prior to working for the State. Based on the negotiated pay scale and union contract provisions, a full-time, permanent Manpower Planner III would have to work for five years to obtain a similar salary to that which Mr. Jarocki obtained in four months.²³

DCEO also gave large pay increases to [employee 2]. [Employee 2]'s non-State salary was \$2,000 per month, and her initial salary for the Manpower Planner II position was \$3,709 per month, representing a more than 85% increase. Though the Pay Plan required DCEO to seek approval from the CMS in order pay [employee 2] 10% more than the salary she earned from her prior non-State employment, DCEO did not seek approval from CMS before offering her employment. In December 2009, after 60 days of State employment, DCEO put [Employee 2] into a Manpower Planner III position. Although her new pay was less than the base salary for the Manpower Planner III position, the move resulted in an additional 10% pay increase. Sixty days after that, [employee 2] received a 5% increase, bringing her salary to a total 104% increase from her prior non-State salary.

Ms. Eicken stated that no one in the DCEO Office of Human Resources was responsible for ensuring that candidates for emergency appointments were qualified. Thus, without assessing how the Appointees' qualifications compared to the requirements of the position, DCEO hired Mr. Jarocki and [employee 2] at State salaries significantly above their non-State salaries. Moreover, because DCEO failed to seek prior approval from CMS, the salaries had been paid for many months before the transactions came to the attention of CMS.

Ms. Eicken is responsible for applying complex and technical knowledge to transactions and correctly interpreting the Personnel Rules, Pay Plan, union contracts, and other policies affecting employee transactions. Her explanations in relation to the emergency appointments, namely that (1) she "only processes the paperwork" and (2) if it comes from a Deputy Director,

²³ Negotiated rates of pay for union-represented positions are incorporated into the Pay Plan. 80 Ill.Adm.Code §310.40. The AFSCME Master Contract, which governs manpower planner positions, contains negotiated rates of pay divided into ten "steps." The CMS Transactions Manual advises that the rate for newly hired employees into AFSCME-represented titles is normally the lowest step. *Personnel Transactions Manual*, Section 10, p. 3, 1.A.(1). The AFSCME Master Contract provides, "Employees shall receive a step increase to the next step upon satisfactory completion of twelve months creditable service." AFSCME Master Contract, Art. XXXII, Sect. 4.

she does not question it, do not comport with her job responsibilities. Ms. Eicken failed to apply the Pay Plan, applicable caps, and the union negotiated rates regarding Mr. Jarocki's and [employee 2]'s pay. Ms. Devlin, as the Deputy Director of Human Resources, then approved the improperly high starting salary for Mr. Jarocki and pay increases to Mr. Jarocki and [employee 2]. Therefore, the allegations that Ms. Devlin and Ms. Eicken violated the Pay Plan by processing unwarranted salary levels for James Jarocki and [employee 2] are **FOUNDED**.

3. *DCEO Failed to Meet its Obligation to Ensure Appointees Were Qualified.*

The CMS *Personnel Transactions Manual* places the responsibility for ensuring appointees are qualified on the employing agency: "Before making an appointment, the agency is responsible for ensuring the candidate possesses the minimum training and experience required for the position." *Personnel Transactions Manual*, Section 2, p. 18. Ms. Devlin, Ms. Eicken, and [employee 6] all denied that they were responsible for making *any* assessment about whether an appointee was qualified.

Investigators did not discover an agency policy assigning a specific office or designating a specific office holder the task of ensuring that DCEO meets its obligation to ensure appointees to emergency appointments are qualified for the positions they will hold. The investigation makes clear that no one is conducting even a cursory review of the qualifications of appointees to determine whether they meet the minimum requirements of the position. Because of the lack of procedures, DCEO employed [employee 2] in positions for which she was unqualified because she did not hold a college degree or the requisite work experience; indeed, she was told she could not be hired permanently into the position. Therefore, the allegation that DCEO failed to meet its obligation to ensure appointees were minimally qualified is **FOUNDED**.

B. Pam Eicken, Tina Dye, and Bridget Devlin Violated Administrative Order No. 2 (2009) in Relation to the Hiring of [Mr. Dye].

As described above, in December 2009, Governor Quinn issued Administrative Order No. 2 (2009) ("Order") which, among other things, detailed procedures for hiring for *Rutan*-covered positions. Ms. Eicken violated Administrative Order No. 2 (2009) requirements regarding the use of eligible lists. Ms. Dye and Ms. Devlin violated the Order's restrictions regarding improper influence of interviewers.

1. *Misuse of Eligible Lists*

Administrative Order No. 2 (2009) created "blind eligible lists." "In creating an open competitive eligible list, to be utilized by an agency for an open *Rutan*-covered position, CMS shall redact the names of the applicants and other personally identifiable information so that the selection of candidates for an interview pool can be done on a blind basis." Administrative Order No. 2 (2009), II.C. The Order also directs that where it is impractical for agencies to interview all reachable applicants, "the agency shall use a standardized method to select the names of candidates to interview for a position. Such a method shall be based on: (i) factors related to the merits of the individual applicants, (ii) random selection, or (iii) any other

reasonable, impartial, and legally compliant standard.” Administrative Order No. 2 (2009), III.C.2.

Here, Ms. Eicken obtained contact information for each applicant prior to anyone selecting whom to interview and then provided the information to the interviewers. This resulted in Mr. Dye being selected for an interview. The method of selection was not related to merit, was not random, and was not an otherwise reasonable, impartial, or legally compliant standard as required by the Order. The allegation that Ms. Eicken violated Administrative Order No. 2 (2009) when she circumvented the blind eligible list process is **FOUNDED**.

2. *Attempts to Influence Rutan Interviewers*

The Order also directs that interviewers assess candidates based on their responses to a uniform set of questions “in an atmosphere where interviewers are free of advance knowledge of candidates and of outside influences. *Rutan* interviewers must be insulated from any attempts to sway their assessments or hinder their objectivity.” Administrative Order No. 2 (2009), III.B.1.

Tina Dye’s and Bridget Devlin’s conduct during the process by which [Mr. Dye] was hired in the summer of 2010 violated the Order. Ms. Dye admitted that she “put in a good word for her husband” and asked Ms. Devlin to give him an interview. Ms. Devlin, in turn, directed [employee 8] to select Mr. Dye as one of the interviewees. [Employee 8] said that in his conversation with Ms. Devlin, she discussed Mr. Dye’s background in construction, which was why [employee 8] believed Ms. Devlin wanted to interview Mr. Dye.

By asking that her husband be given special consideration for an interview, Ms. Dye violated the directive that candidates be evaluated in an atmosphere where interviewers are free of advance knowledge of candidates, outside influences, and attempts to sway an interviewer’s assessment of candidates or otherwise hinder objectivity. Ms. Devlin, by reporting to [Employee 8] her desire to have Mr. Dye interviewed and providing information about Mr. Dye’s background, similarly violated the Order. Moreover, Ms. Devlin’s review of interviewee applications prior to conducting the interviews violated the Order by giving her advance knowledge of the candidates beyond what was elicited in the interview. Accordingly, the allegation that Bridget Devlin and Tina Dye violated Administrative Order No. 2 (2009) when they attempted to influence *Rutan* interviewers is **FOUNDED**.

C. **James Jarocki Falsified his Employment Applications.**

DCEO “[e]mployees must not knowingly make a false report, written or oral, including all employment applications...” (DCEO Rules of Conduct #13). The State’s CMS-100 employment application contains the following certification: “I certify that the information on this application is true and accurate and understand that misrepresentation of any material fact may be grounds for ineligibility or termination of employment.” Mr. Jarocki made this certification four separate times between October 2009 and June 2010 despite knowing that the information contained in the applications was not accurate.²⁴ Mr. Jarocki admitted to

²⁴ Mr. Jarocki submitted six applications during this time; however, he left the education information section blank on two applications. Therefore, Mr. Jarocki certified false educational information four times.

investigators that he falsified his application materials in order to obtain a position with DCEO. By doing so, Mr. Jarocki received an unwarranted "A" grade. Had he accurately reported his education and received what [employee 9] described as "at best a 'B,'" DCEO could not have hired him, as the Personnel Code prohibits hiring an employee with a "B" grade when there are multiple "A" grade applicants to consider. 20 ILCS 415/8b.5.

Mr. Jarocki attempted to explain his falsification by saying that he did not think it would matter because the position did not require a degree and that he inflated that number of semester hours he had completed so that it would appear that he was closer to receiving a degree. His explanations do not mitigate the fact that by falsifying his employment application he was awarded a position for which he should never have even been interviewed. Accordingly, this allegation is **FOUNDED**.

VII. Recommendations

Following due investigation, the OEIG issues these findings:

- **FOUNDED** – Bridget Devlin violated the Personnel Code when she effectuated emergency appointment renewals for James Jarocki, [employee 2], and [employee 1].
- **FOUNDED** – Pam Eicken violated the Personnel Code when she effectuated emergency appointment renewals for James Jarocki, [employee 2], and [employee 1].
- **FOUNDED** – Bridget Devlin violated the Pay Plan when she effectuated improper salary levels for James Jarocki and [employee 2].
- **FOUNDED** – Pam Eicken violated the Pay Plan when she effectuated improper salary levels for James Jarocki and [employee 2].
- **FOUNDED** – DCEO failed to establish policies to ensure that appointees meet the minimum qualifications of their positions.
- **FOUNDED** – Pam Eicken violated Administrative Order No. 2 (2009) when she obtained contact information for applicants and prevented *Rutan* interviewers from selecting candidates for interview in a blind manner.
- **FOUNDED** – Tina Dye violated Administrative Order No. 2 (2009) when she attempted to influence, and provided knowledge of an applicant to Bridget Devlin, a *Rutan* interviewer who interviewed and hired her husband.

- **FOUNDED** – Bridget Devlin violated Administrative Order No. 2 (2009) when she attempted to influence [employee 8], a *Rutan* interviewer who interviewed and hired Tina Dye’s husband.
- **FOUNDED** – Bridget Devlin violated Administrative Order No. 2 (2009) when she reviewed employment applications prior to interviewing applicants for Weatherization Specialist Trainee positions.
- **FOUNDED** – James Jarocki falsely reported his educational background on his employment applications in order to obtain employment with the Department.

Because Bridget Devlin left State service on May 18, 2012, the OEIG recommends that DCEO place a copy of this report in Ms. Devlin’s personnel file. Had she not left State government, the OEIG would have recommend that she be subject to discipline for the following conduct: (1) violating the Personnel Code by effectuating emergency appointment renewals for James Jarocki, [employee 2], and [employee 1]; (2) violating the Pay Plan when she effectuated unwarranted salary levels for James Jarocki and [employee 2]; (3) violating Administrative Order No. 2 (2009) when she attempted to influence [employee 8], a *Rutan* interviewer who interviewed Tina Dye’s husband and selected him for hire; and (4) violating Administrative Order No. 2 (2009) when she reviewed employment applications before conducting *Rutan* interviews.

The OEIG recommends that Pam Eicken be subject to discipline for the following conduct: (1) violating the Personnel Code by effectuating emergency appointment renewals for James Jarocki, [employee 2], and [employee 1]; (2) violating the Pay Plan by effectuating unwarranted salary levels for James Jarocki and [employee 2]; and (3) violating Administrative Order No. 2 (2009) by circumventing the blind eligible list process.

The OEIG recommends that Tina Dye be subject to discipline for violating Administrative Order No. 2 (2009) when she attempted to influence a *Rutan* interviewer to select her husband for an interview and gave a *Rutan* interviewer advance knowledge of an applicant.

The OEIG recommends that James Jarocki be discharged for falsifying his employment applications. Mr. Jarocki’s falsification caused him to receive an unwarranted “A” grade without which he would never have been interviewed, let alone hired, for his current position.

In addition, the OEIG recommends that DECO establish a policy by which it ensures that appointees are minimally qualified for the positions for which they are hired.

No further investigative action is needed, and this case is considered closed.

Date: **July 31, 2012**

Office of Executive Inspector General
for the Agencies of the Illinois Governor
607 East Adams, 14th Floor
Springfield, IL 62701

Sarah Kerley
Assistant Inspector General

William Parker
Investigator #121



OFFICE OF EXECUTIVE INSPECTOR GENERAL
FOR THE AGENCIES OF THE ILLINOIS GOVERNOR

32 WEST RANDOLPH STREET, SUITE 1900
CHICAGO, ILLINOIS 60601
(312) 814-5600

OEIG RESPONSE FORM

Case Number:
10-00790

Return By:
20 Days After Receipt of Report

Please check the box that applies.

- ☐ We have implemented all of the OEIG recommendations.
(Provide details regarding action taken.)

- ☒ We will implement all of the OEIG recommendations but will require additional time.
We will report to OEIG within 30 days from the original return date.
(Provide details regarding action planned / taken.)

- A copy of this report has been placed in Bridget Devlin's file.
- Pam Eicken and Tina Bye have completed counseling sessions.
- Disciplinary actions against James Jarocki have begun. However, the agency requires additional time to further investigate details of his hiring.
- CEO will work with CUS to strengthen hiring policies.

(over)

- ☐ We are implementing one or more of the OEIG recommendations, however, we plan to depart from other OEIG recommendations.

(Provide details regarding action planned / taken and any alternate plan(s).)

- ☐ We do not wish to implement any of the OEIG recommendations.
(Explain in detail why and provide details of any alternate plan(s).)

Signature

David H. Vaught

Print Name

Director, DCED

Print Agency and Job Title

8-20-2012

Date



Illinois
Department of Commerce
& Economic Opportunity
Pat Quinn, Governor

September 25, 2012

Ricardo Meza
Executive Inspector General for the Agencies of the Illinois Governor
607 East Adams, 14th floor
Springfield, IL 62701

Re: OEIG Case No. 10-00790 – Second response to final report

Dear Mr. Meza,

In response to a request for clarification in your letter dated August 27, we need to amend the action category from "We will implement all of the OEIG recommendations but will require additional time" to "We are implementing one or more of the OEIG recommendations; however we plan to depart from other OEIG recommendations."

Regarding Bridget Devlin, as she is no longer an employee of the State of Illinois, a copy of the report has been placed in her file.

Regarding Pam Eicken and Tina Dye, the OEIG report recommended discipline for both employees. Based on further information we obtained regarding their situations, we determined counseling sessions were appropriate. The counseling sessions were administered on August 16, 2012. However, counseling sessions are not considered discipline per the AFSCME contract, making the action a deviation from the OEIG recommendation.

Regarding James Jarocki, we began termination proceedings, but he is resigning his position as a result of this investigation. No further action is necessary.

We believe we have fully responded to the recommendations of Case No. 10-00790. Should you have any additional questions, please contact Emily Monk, Chief Operating Officer, at 312-814-5279.

Sincerely,

David H. Vaught
Director

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IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

EXECUTIVE
ETHICS COMMISSION

IN RE: Tina Dye

)

10-00790

RESPONDENT'S SUGGESTIONS FOR REDACTION / PUBLIC RESPONSE

Please check the appropriate line and sign and date below. If no line is checked the Commission will not make your response public if the redacted report is made public.

☒ Below is my public response. Please make this response public if the summary report is also made public; or

☐ Below are my suggestions for redaction. I do not wish for these suggestions to be made public.

Respondent's Signature

10.31.12
Date

Instructions: Please write or type suggestions for redaction or a public response on the lines below. If you prefer, you may attach separate documents to this form. Return this form and any attachments to:

Illinois Executive Ethics Commission
401 S. Spring Street, Room 513 Wm. Stratton Building
Springfield, IL 62706

Please see attached

Tina Dye Response to OEIG Report #10-00790

While there are no findings against me regarding the temporary appointments of the Manpower Planner III positions, I feel compelled to send this comment.

I have worked in the state HR field for approximately 13 years. It has always been my understanding that CMS is the ultimate authority, "watchdog," for all personnel policies, rules, and/or transactions. When we sent to CMS the 2nd emergency appointment and they processed with no questions, and then especially after the 3rd emergency appointment, it gave us no reason to think we were doing anything inappropriate. Historically if you sent a transaction to CMS that was inaccurate or was unacceptable, it was called to your attention immediately so as to prevent any unallowable transaction from being processed.

I cannot help but question why there is no responsibility on their part since these appointments were also processed by them. In the CMS Transactions Manual, under Section 2, Chapter 10 Emergency Appointments, Paragraph E. it states:
Remarks Section of the CMS-2 Form and Attachments:

1) Reason for filling the position by an emergency appointment must be documented and submitted with CMS-2 form. The reason will be reviewed by CMS to ensure compliance with the intent of the Personnel Code. Emergency Appointments that do not meet the criteria or are improperly documented will not be approved.

I feel this verbiage from the CMS Transaction Manual validates my response. I would again like to stress they also allowed multiple transactions.

As far as the finding on me, that I violated Administrative Order #2 (2009). As I stated in my interview with OEIG staff, I felt and still feel that I was merely putting in a good word for an applicant. I know this is not at all uncommon in state employment so I cannot help but feel I am being unfairly pointed out.

I have been a state employee for 20+ years with a record of many (the majority) evaluations rated as exceeds. At no time did I ask anyone to hire the applicant nor did I intend anything I said to be interpreted as such. I will, however, refrain from ever commenting in anyway on a known applicant in the future.

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: Bridget Devlin

)

10-00790

RESPONDENT'S SUGGESTIONS FOR REDACTION / PUBLIC RESPONSE

Please check the appropriate line and sign and date below. If no line is checked the Commission will not make your response public if the redacted report is made public.

X Below is my public response. Please make this response public if the summary report is also made public; or

_____ Below are my suggestions for redaction. I do not wish for these suggestions to be made public.

Respondent's Signature

11/13/2012
Date

Instructions: Please write or type suggestions for redaction or a public response on the lines below. If you prefer, you may attach separate documents to this form. Return this form and any attachments to:

Illinois Executive Ethics Commission
401 S. Spring Street, Room 513 Wm. Stratton Building
Springfield, IL 62706

See attached.

To: Executive Ethics Commission
From: Bridget Devlin
cc: Attorney General Lisa Madigan
Re: OEIG Case No. 10-00790; OEIG Final Report (Redacted)
Date: November 13, 2012 (Pursuant to extension of time granted to respond)

In response to the above-referenced matter, I have the following factual corrections to make: I did not work at the Department of Commerce and Economic Opportunity ("DCEO") for 10 years. I stated during my interview that (at the time of the interview) I had approximately 10 years of service with the State. I worked for DCEO for just over five years. Both of these facts should have been checked by you before producing your report; however, knowing that your staff turned over numerous times before you finalized your report, I'm sure it was difficult for you to confirm her notes. Further, the entire process is exacerbated by the fact that I was not allowed to take notes, nor was I afforded the option of recording it.

With regard to the allegations that I violated the Personnel Code, the Pay Plan and Administrative Order No. 2 (2009), I would like to let the record stand that no hiring decision at DCEO was ever made in a vacuum. As the Deputy Director for the Office of Human Resources ("HR"), I never had the ultimate authority to act on any hiring decision without either the Director's approval, or a Deputy Director who would have already sought Director's approval. HR operated under the continuous authority, advice and consent of the Department of Central Management Services ("CMS"). Furthermore, HR could not and would not have transacted any of the emergency appointments without CMS' approval. When CMS did finally notify HR staff that it should not submit another emergency appointment for this particular type of work, HR immediately complied.

Although the timeframe you are referencing began over 3 years ago and I no longer have the records available for review, if my memory serves me correctly, DCEO had just received an influx of additional funding from the American Recovery and Reinvestment Act ("ARRA") for the Workforce Investment Act ("WIA"), which DCEO was tasked with administering. As Deputy Director for HR, I was asked to figure out a way to quickly hire people to go out into the field to cover WIA mandates. That directive was given to me by the Deputy Director for the Office of Workforce Development, and the candidate, Mr. Jarocki (who I never even personally met) was brought to HR through that Office. It was never the practice of HR to recruit, nor did it keep hiring lists, for emergency appointments. So as HR, we could only assume Mr. Jarocki was qualified to do the job. When the emergency appointment ended, HR was asked by that Office if Mr. Jarocki could continue working and, again, under the advice and consent of CMS, we were told we could bring him back on an emergency appointment if we moved him to a different position. Contrary to your weak and unofficial interpretation of the Personnel Rules and Code, CMS did consider a different position number to be a different position, even if it did have the same position title. As for the changes in salary, regardless of what a person was earning prior to his employment with the State, HR was required by the CMS Pay Plan to start that person at the minimum range of the salary for a particular title. Not having the Pay Plan and the files we kept during that process at my disposal any longer, I cannot confirm positively, but I can assume that

is why an individual may have been hired at a salary well above what he earned prior to working in the title of Manpower Planner. Again, I was told by that Office that Mr. Jarocki was qualified and doing a good job and if additional wages could be paid, to request an increase because there was an emergency need for the work to be completed. That transaction was approved by CMS.

Before addressing the allegation that I broke *Rutan* hiring rules, let me point out that the Office of Energy Assistance's ("OEA") budget quadrupled with ARRA funding in 2009. HR was asked by OEA to begin the posting and hiring process for as many as ten new Weatherization Specialist Trainees, which it did. Your report also failed to mention that DCEO completely exhausted the veteran's list, hiring every veteran on it, before it went to an open list. We would not have had that list of candidates if CMS had not provided HR with the open competitive list!

Because you interpret one phrase that Administrative Order No. 2 (2009) directing that *Rutan* interviewers be "free of advance knowledge of candidates and of outside influences," to give the appearance of wrongdoing on my part, let the record stand that I never received any sort of instruction or warning in either my initial three-day *Rutan* training course offered by CMS, or in the one and one-half day follow-up refresher course, that *Rutan* interviewers were not allowed to see a resume or application prior to a *Rutan* interview. It would have been nearly impossible to not have knowledge of many of the candidates applying with the thousands of applications we received for the positions we posted during the time I directed HR. In fact, every *Rutan* position was posted through CMS with the instruction that when applying, an applicant should mail or fax his CMS-100 to the Office of Human Resources. It was common practice for HR, and I'm sure it continues, to review applications that are sent in prior to any *Rutan* interview. The importance of fairness and non-bias would be emphasized to every interviewee prior to any *Rutan* interview, by reading a disclaimer that, amongst other things, informed them that "...although we may have your application, we do not draw from that information during the course of the interview..."

The fact that I was asked by Tina Dye to interview her husband was never denied. Your report does misstate that I "knew Mr. Dye from having worked with his wife and because he provided lawn care..." at my home through my lawn service. I had never met Mr. Dye, and I told the OEIG interviewer that during my interview, but again, I know it must be difficult for you to corroborate her notes because she no longer works for the OEIG. I did not state that I "... *told* (emphasis added) [employee 8] to interview Mr. Dye." I did *ask* the other panelist if we could interview Mr. Dye as a courtesy. What your report failed to mention was that I told your OEIG investigator that I stated to [employee 8], "We are under no obligation to hire him." I did *not* try to *influence* the other *Rutan* interviewer in any way. Mr. Dye's interview was conducted in exactly the same manner that all other *Rutan* interviews in my five-year tenure with HR were. When Mr. Dye scored second highest out of five candidates, he became an obvious choice for the position, and I stand by the decision that both [employee 8] and I made collectively as a *Rutan* panel to hire him and believe prior to my departure that Mr. Dye was an exemplary employee.

Finally, I'd like to respond to the completely unequal and biased treatment I have received for my role in these transactions. Although I do not believe my former staff should have been disciplined because none of this was done in an attempt to circumvent any rules or regulations, I certainly do not think the agency should have thrown me under the bus for practices HR was told were valid. By placing a copy of your report in my personnel file while no mention goes in the

other employees' files, I have been held to an entirely different standard than any other individual involved in these hiring transactions. I left employment with the State of Illinois in May 2012, and I was completely sideswiped when this report landed in my mailbox, not to mention utterly surprised that actions that took place in 2009 have now been twisted into a report that took nearly three years to finalize. The OEIG wants to point to errors, but what is really highlighted in this instance is that the OEIG is an incompetent, sloppy investigator. I did not set up the system; I played by the rules and did the best I could under the circumstances; and I did not benefit personally in any way, yet I am now being blamed for weaknesses in the system.

The real travesty of justice here, however, is that the OEIG's 27-page, flawed report is filled with lack of the facts, misunderstanding of the hiring process, innuendo and omissions of responses on my part, not to mention the preposterous number of hours it likely took to complete -- all the while wasting thousands of taxpayer dollars.

Then in an attempt to save face and give the appearance that it takes a hard stand (knowing full well that I did not have the authority to make any of these decisions without direction from the Director or Deputy Director of the Offices mentioned), DCEO reprimands just me (in absentia) by placing a copy of the report in my personnel file in what can only be interpreted as an attempt to muddy my professional reputation. In my five-year tenure with DCEO, I believe I handled all of the hiring decisions and transactions for which I was tasked with the utmost professionalism, fairness and ethics, following the Personnel Code, Personnel Rules, CMS Pay Plan and any other rules and regulations to the letter of the law.

In the simplest terms, I liken your allegations to a scenario in which the coach of the football team tells the quarterback what play to run, and when the play doesn't work, the fans blame it on the quarterback, even though it was never his decision to run the play in the first place! It should give the taxpayers of the State of Illinois great comfort to know that their tax dollars have been well spent on this 27-page, dismal misuse of their money. Shame on you.

Since this is my *only* opportunity to defend the actions HR took and to preserve my personal integrity, and considering the many factual errors I have listed above, together with the misguided direction from CMS to DCEO's HR staff, I ask you not to publish the report at all. It contains serious inadequacies and errors. If you do publish the report, then it is my right to have this rebuttal published with it, and I wish to exercise that right.

RECEIVED
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EXECUTIVE
ETHICS COMMISSION

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: Pamela Eicken

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10-00790

RESPONDENT'S SUGGESTIONS FOR REDACTION / PUBLIC RESPONSE

Please check the appropriate line and sign and date below. If no line is checked the Commission will not make your response public if the redacted report is made public.

☒ Below is my public response. Please make this response public if the summary report is also made public; or

☐ Below are my suggestions for redaction. I do not wish for these suggestions to be made public.

Respondent's Signature

11-2-2012
Date

Instructions: Please write or type suggestions for redaction or a public response on the lines below. If you prefer, you may attach separate documents to this form. Return this form and any attachments to:

Illinois Executive Ethics Commission
401 S. Spring Street, Room 513 Wm. Stratton Building
Springfield, IL 62706

See Attached public response.

November 2, 2012

RE: Pamela Eicken Rebuttal / Public Response to OEIG Case # 10-00790

I, Pamela Eicken, respectfully submit the following rebuttal / response regarding the findings of the Office of Executive Inspector General (OEIG) as identified in OEIG Case # 10-00790. I, Pamela Eicken, refute the findings of OEIG in said Case. I am providing the following discussion / information to prove that there was no wrong doing on my part, and that all actions taken by me were based entirely on directives from, and with the approval of Department of Commerce and Economic Opportunity (DCEO) Senior Management (Director / Deputy Director), in conjunction with the advice, review, and approval of all actions taken, by the Department of Central Management Systems (CMS).

First, let it be noted that without question, CMS is the agency responsible for review and final approval of personnel transactions. It is CMS's responsibility to ensure that personnel transactions submitted for review are in compliance with the Personnel Code Policies / Rules, and for providing the Department of Commerce and Economic Opportunity with either their approval or denial of said submittals. Based on this, and the actions described below, I maintain that I am innocent of all allegations rendered by OEIG based on the fact that I followed all directives given me by DCEO Senior Management as well as all procedures / policies / rules required and ultimately approved by CMS.

Regarding the transactions of the emergency appointment, I spoke directly with Don Motley, CMS transactions liaison, in regard to the eligibility of the emergency appointment, as well as whether said transactions were allowable under existing policy / rules. I was told by Don Motley that as long as the candidate is not in the same position number as currently identified, that additional emergency appointments for the same candidate were allowable / acceptable to process.

Note, in the CMS transactions manual, Section 2., #10. Emergency Appointments., Part E., it states:

Remarks Section of the CMS-2 Form and Attachments:

1) Reason for filling the position by an emergency appointment must be documented and submitted with CMS-2 form. The reason will be reviewed by CMS to ensure compliance with the intent of the Personnel Code. Emergency Appointments that do not meet the criteria or are improperly documented will not be approved.

The above statement from the CMS Transactions Manual, validates without question, that CMS is the authorized agency for the review and approval of personnel transactions. Therefore, if DCEO had done anything incorrectly, CMS would have denied the request, notified DCEO of the

denial, and provided the reasons on which the denial was based. In this case, no denial was provided at any point during the process, and all actions taken by myself under directives from DCEO Senior Management were based on discussions with CMS, and all actions taken were based on the directions provided to me by CMS, prior to the submittal of the transactions to CMS.

In the matter of the emergency appointments, I was directed by DCEO Deputy Directors of Human Resources Bridget Devlin, and Tina Dye (Acting), that

that Workforce Development needed the emergency appointment due to the fact that :
- monitoring unit was extremely understaffed and therefore, federally required monitoring, and monitoring assistance were not being met.

Based on my Job Description, one of my job duties is the preparation of CMS-2 forms and submitting them to the Director or Director's designee for approval and signature. In all cases in which I complete a CMS-2 form, it is due to a directive from Senior Management. Based on my job title and job duties, I do not have the authority to place someone into a position, nor did I in anyway do that in this case or any other, nor did I attempt to do so in this case. In the matter of the emergency appoints in question, I was directed by DCEO Senior Management to process the transactions for the emergency appointments. Throughout the process I worked directly with CMS and followed their directions and all required procedures.

The statement from Bridget Devlin that she would then consult with Ms. Eicken to determine whether there was a vacant position that could be used to meet the needs of the office is incorrect. In fact, Bridget Devlin told me what position was vacant and what position number to use. Had I not completed the transactions as directed by DCEO Senior Management, I would have been considered insubordinate according to the DCEO Rules of Conduct as found in Section #3., of the DCEO Rules of Conduct which states:

"Employees must not be insubordinate, fail to follow an order or directive, or be disrespectful toward a supervisor."

However, I would never follow a directive that I knew to be inappropriate and / or illegal, and to ensure that I don't, and in this case to assure that I did not participate in anything inappropriate and / or illegal I kept CMS involved in the process from the beginning and throughout the entire process under question by OEIG.

Let me be very clear, all of the activities I conducted in this case were based on discussions with, the directions provided by CMS staff, and in accordance with the processing procedures in place for emergency appointment personal transactions, all of which were all discussed with CMS prior to implementation by DCEO. As established earlier in this document, CMS is the agency responsible for review and approval of the transactions that I was carrying out per directive of DCEO Senior Management and with the direction of CMS. In fact, I was so thorough

in the processing of these appointments to assure everything was done correctly that I was continually called and harassed by [redacted] on behalf of his supervisor, [redacted] to press the issue of moving the process along. I constantly reminded [redacted] at the time required for the review and approval by CMS was out of my control and I would only move forward with CMS's approval.

Throughout my discussions with [redacted] I specifically pointed out to him that the personnel in question regarding the emergency appointment could not continue to do the same job they had under the previous emergency appointment. I stressed to [redacted] that he must ensure that these issues were adhered to. [redacted] via phone conversation, told me they [redacted] would follow this directive. [redacted] assured me that the appointments would be doing other duties. In discussions with [redacted] CMS, she told me that I needed to talk to [redacted] CMS, of who told me that as long as they are not in the same position number and would be conducting different functions, the emergency appointments were acceptable. [redacted] told me that it did not matter if it was the same person, as long as that person was conducting different job functions under a different position number.

The fact CMS transactions reviewed, approved, and processed the first emergency appointment; reviewed and approved the second emergency appointment, which included salary adjustments / increase, as well as the third emergency appointment which also included a salary increase, confirms that the information and directions that [redacted] provided was correct. Due to the fact that I followed the directives of DCEO Senior Management, all directions as provided to me by [redacted] of CMS, and that CMS reviewed and approved the transactions, it is unfathomable that the OEIG could possibly come to the conclusion that I am in anyway responsible for violating the Personnel Code.

At no time did CMS call or otherwise contact DCEO or myself regarding the emergency appointments that had been submitted, not until the OEIG complaint was filed. Instead, entirely after the fact, I received a call from CMS Transactions regarding the salary levels changing. I was told by [redacted] of CMS, that since the employees no longer worked for DCEO that I should complete a CMS163 stating that due to oversight of DCEO, the pay increases were missed at the time of the original appointment.

The facts I have presented in this rebuttal are just that, undisputable facts. I have presented the facts based on the actions that transpired and based on the directives I received from DCEO Senior Management, and the fact that CMS provided direction / input regarding the emergency appointments in question in this case. If during this process CMS provided incorrect information / directions, and / or approved transactions that they should not have, then those issues need to be addressed with CMS. In this case, OEIG is holding me responsible for the mistakes and / or oversight of staff from another agency, CMS, and direct orders from DCEO Senior Management Team to me. If at the end of an investigation, fault is applied to an individual or entity for the sole purpose of having a "fall guy" and thus closure whether the fault placed is justified or even applied to the appropriately party, then the entire investigation

is rendered useless and unjustified. The travesty is that an innocent employee who works hard and always strives to do the best job possible is punished for no other reason than, somebody needs to be. I have an excellent record as a hard working employee with only positive evaluations and comments on my work ethic, a record that will now be unjustifiably tarnished through no fault of my own.

Administrative Order #2 (2009):

Administrative Order #2 (2009) does not state anywhere that you cannot select contact information for each applicant. The fact that this was inappropriate was once again not made aware to us until after the fact. I contacted CMS Transactions and asked if the Administrative Order states that you cannot select contact information for each applicant and CMS informed me that it does not. I was unaware that selecting every blind list number that each of them had to be invited to an interview. While I may have submitted the list to CMS for candidate information, which falls within my job duties and as directed by Bridget Devlin, it was Bridget Devlin and Randy Bennett that selected the individuals for candidates to be interviewed.

OTHER PERTINENT INFORMATION:

- A. Policy Governing Emergency Appointment:
Section 8b.8 of the Personnel Code and Section 302.150b of the Personnel Rules provide for Emergency Appointments to positions to meet emergency situations. Such appointments are made by the Agency Head and are reported to the Director of Central Management Services. **Emergency Appointments may not exceed 60 calendar days and are not renewable.**
- 1) An emergency need arises only when an appointment is required with little or no notice to:
 - a) Avoid a threat to the health, safety or welfare of employees or residents of the State;
 - b) Prevent damage to property; or,
 - c) Maintain the continuity of essential agency programs.
 - 2) With the above criteria, Emergency Appointments should be very rare.
- B. Consecutive Nonmerit Appointments, such as Emergency, Temporary, or Provisional are not to be made solely for the purpose of preserving the employment status of an individual. Such practice is in violation of merit standards.
- C. Recall/Reemployment Lists or Higher Recall do not have to be cleared before making an Emergency Appointment.
- D. An agency has the authority to appoint a candidate to Emergency Status without prior approval from the Director of Central Management Services. A CMS-101, Personnel Requisition of Eligibles, is not required.
- E. Remarks Section of the CMS-2 Form and Attachments:
- 1) **Reason for filling the position by an emergency appointment must be documented and submitted with CMS-2 form.** The reason will be reviewed by CMS to ensure compliance with the intent of the Personnel Code. Emergency Appointments that do not meet the criteria or are improperly documented will not be approved.
 - 2) An Employment Decision Form and Candidate Evaluation, if applicable, must always be attached, explaining the process used to make the selection.

limitations imposed by Sections 1.1, 1.2, and 1.3 of this document. Disciplinary action may result from other instances not specifically listed below.

Rules of Conduct

1. Employees must not fail to abide by the Department rules and regulations.
2. Employees must not be incompetent or inefficient in the performance of a duty, or inattentive to, or fail to perform a duty.
3. **Employees must not be insubordinate, fail to follow an order or directive, or be disrespectful toward a supervisor.**
4. Employees must not have unauthorized absences, absenteeism, or tardiness, including leaving work before quitting time and overstaying breaks or lunch periods.
5. Employees must not come to work under the influence of alcohol.
6. Employees must not illegally use, manufacture, possess, control, sell, administer, or dispense of any compound or narcotic drugs as defined by the Illinois Criminal Code.
7. Employees must not misuse or abuse state work time for personal gain or for any reason other than performing the employee's assigned duties.
8. Employees must not steal, misuse, or convert to personal use state-owned property or property belonging to another.
9. Employees must not participate in any political campaign or activity during work hours, including selling or buying tickets, ads, chances, collection or distribution of any money, gifts, or other goods of value for political purposes.
10. Employees must not solicit or accept any gratuity, gift, present, reward, or other thing of value in return for performance of the employee's official duties, or as a condition of not performing such duties that would be in violation of the Gift Ban Act.
11. Employees must not engage in any conduct or action to use the employee's official position for personal gain or influence.
12. Employees must not engage in disorderly conduct during work hours, show disrespect to, or maltreat any person, including but not limited to, harassment between a supervisor and fellow employee, or among employees of the office.
13. Employees must not knowingly make a false report, written or oral, including all employment applications, timekeeping records, and information regarding employment.
14. Employees must not cheat on or compromise an examination used for hiring or advancement by an applicant or employee.
15. Employees must not be in possession of explosives, firearms, or other weapons on state property, or attempt to bring same onto state property, unless such possession is required in the regular course of an employee's job.